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P1028 (16221RRUS02)

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Yuan, Wei

Serial No.: 10/642,256

Filed: August 15, 2003

For: Method for Providing Media Communication Across Firewalls

Group Art Unit: 2134

Examiner: Tolentino, Roderick

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**REPLY BRIEF FILED BY ASSIGNEE
UNDER 37 C.F.R. § 41.41**

The Assignee of Record, Nortel Networks Limited, hereby files this Reply Brief pursuant to 37 C.F.R. §41.41, which appeals the claim rejections for Claims 1-20 in the Final Office Action issued by the Examiner. The Appellant believes the Examiner has incorrectly interpreted the scope of the claims by ignoring express claim limitations, and the Appellant respectfully contends that the Examiner has improperly interpreted the scope and content of the prior art.

EXPRESS MAIL CERTIFICATE

"Express Mail" mailing label No. EM 015450726 US I hereby certify that this paper or fee is being deposited in triplicate with the United States Postal Service, "Express Mail" service under 37 C.F.R. 1.10, on the date indicated below and is addressed to Mail Stop Appeal Brief, P.O. Box 1450, Alexandria, VA 22313-1450.

September 4, 2008
Date of Deposit

Amy Kasper
Amy Kasper

First and foremost, the Examiner contends that the claims do not explicitly require that the trusted entity is located outside the communication network. The Examiner is simply incorrect. A cursory review of independent claims 8 and 14 shows that this location (outside the communication network) is explicitly claimed, which means all the claims dependent therefrom also include this limitation. This location of the trusted entity is also claimed in Claims 1-7 based on a common sense interpretation of the claims.

Secondly, the Examiner contends that the prior art Trossen and O'Keefe references teach the claim limitations related to messaging used to create or use the communication pinhole. The Examiner fails to identify, however, where in the Trossen and O'Keefe references such teachings explicitly appear. Contrary to the Examiner's argument, these claim limitations related to the pinhole messaging are simply not disclosed, taught or suggested by either cited art reference. The Examiner's insistence that such teachings are disclosed (when they are not) is the basis for the second claim of error. The Examiner's Final Rejection is mistaken and should be reversed.

I. The Present Claims Requires a Trusted Entity to be Located Outside The Communication Network

The present invention covers the creation of a pinhole communication port in a firewall through the use of a trusted entity that is located outside the communication network. *Application Specification, p. 10-11*. The trusted entity receives information packets and forwards the information packets to a device on the communication network through a pinhole communication port in the firewall, which would not be an operation needed if all the components (e.g. trusted entity) were located inside the firewall on the communication

network. *Application Specification*, p. 15-17, Figs. 2 and 3, Ref. Nos. 135 and 235, respectively.

It is the trusted entity located outside the communication network, not an access router inside the communication network, which replaces the header information and provides the functionality to get the firewall to allow the information packet to be transmitted through the firewall to a device on the communication network. The specification specifically supports the outside location limitation for the trusted entity. *Application Specification*, p. 18-21, Figs. 4-6 (trusted entity outside communication network, linking trusted entity to pinhole communication port, message to trusted entity, using a routing table on the trusted entity to provide address designations, manipulation of address designations for pinhole communication port, transmission of packet to that manipulated address), see also, (Figs. 7-16 show alternative embodiments).

The Examiner incorrectly contends that the trusted entity location (outside the communication network) is not set forth in the claims. Claim 8, explicitly claims “receiving a create pinhole request at a trusted entity linked to the firewall of the communication network and located outside the communication network.” Application, Claim 8, (emphasis added). Further, Claim 15 also explicitly claims “providing a trusted entity having an input and an output outside the communication network.” Application, Claim 15, (emphasis added). All claims dependent from Claims 8 and 15 would also include this limitation. Claim 1 implicitly locates the trusted outside the gateway firewall on the boundary of the communication network by its steps of transferring packets to a communication device through the pinhole in the firewall, which means the trusted entity is located outside the communication network. It makes no sense to place the trusted entity inside the

communication network as the Examiner contends, which undermines the Examiner's analysis used to support his rejection.

The Examiner's first arguments in his Response regarding non-patentability based on the scope of the claims fail after a cursory review of the claims. Contrary to the Examiner's Answer, all the independent claims, as well as the dependent claims, include limitations that require the trusted entity to be located outside the communication network. The Examiner's position simply cannot be reconciled with the explicit claim language found in the claims of the present application. The Examiner's Final Rejection should be rejected and the claims should be allowed.

II. Pinhole Messaging Limitations Are Not Disclosed In The Prior Art

The Examiner combines the Trossen reference with the O'Keefe reference to support his obviousness §103 rejection. Even the Examiner concedes that the O'Keefe reference does not teach, disclose, or suggest the creation of a pinhole in a firewall. As such, the Examiner is relying exclusively on the Trossen reference to disclose the claim limitations regarding the messaging surrounding the creation and use of the pinhole communication port in the firewall.

In its only statement regarding a pinhole, however, Trossen states that "[c]onfiguring the new IP path may also involve creating a pinhole in the firewall that may reside between the new access router 117 and the new content source 119." *Trossen, paragraph 0024*. This speculative statement is the only support for the Examiner's position regarding the obviousness of numerous claim limitations that are much more specific in scope and content.

The Examiner stretches out this single statement to support an obviousness §103 rejection of explicit claim limitations even though this statement never discloses, teaches, or

suggests those limitations. For example, the Examiner contends the following limitations are disclosed, taught or suggested by this single sentence:

- * “signaling messages include a create pinhole message” (Claim 3) and “a create acknowledge message” (Claim 4).
- * “creating a pinhole communication port in the firewall in response to the create pinhole request” (Claim 8).
- * “using address data from the create pinhole request” (Claim 9).
- * “transmitting said create pinhole request” and “receiving a create media pinhole acknowledgement.” (Claims 9, 10 and 11).
- * “said link allowing information packets to be sent to a first communication pinhole through the firewall” (Claim 1).
- * “first communication pinhole is established using signaling messages ...” (Claim 2).

The Examiner appears to believe that these explicit claim limitations are disclosed in the single sentence identified from the Trossen reference.

Contrary to the Examiner’s contention, Trossen does not describe the mechanism or procedure that creates a pinhole or transmits a packet through a firewall from an external entity. The Examiner’s Final Office Action Rejection admits that there is no explicit teaching in this cited reference as these limitations when it states that “[t]here has to be some form of messaging that goes on in order to create the pinhole.” *Final Rejection*, ¶3, p. 2.

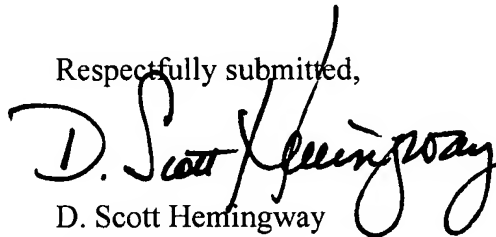
Concluding that these explicit claim limitations are shown in Trossen requires the Examiner to make impermissible, unsupported assumptions regarding such teachings. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), *cert. denied*, 389 U.S.

1057 (1968). It is respectfully submitted that the Examiner's rejections uses the claimed invention as a guide to impermissibly read into the reference through hindsight reconstruction. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968). The Examiner's analysis should be rejected because it fails to properly construe the scope and content of the prior art.

III. Conclusion

The independent claims, as well as the dependent claims, include numerous limitations that are not disclosed, taught or suggested by the cited art relied upon by the Examiner. The Applicant respectfully requests reversal of the claim rejections in the examination in light of the remarks made in this Appeal. It is believed that no additional fees are necessary for this filing. If additional fees are required for filing this response, then the appropriate fees should be deducted from D. Scott Hemingway's Deposit Account No. 501,270.

Respectfully submitted,



D. Scott Hemingway
Reg. No. 36,366
Attorney for Applicant and
Assignee of Record

Hemingway & Hansen, LLP
1717 Main Street
Comerica Bank Tower – Suite 2500
Dallas, Texas 75201
(214)292-8301 (voice)
(214)739-5209 (fax)

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